Connecticut Elder Action Network (CEAN)
2005 Legislative Summary

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Connecticut Elder Action Network (CEAN) - Brief Background

In response to requests from legislators that older adults and their advocates do their best to speak with a common voice, stakeholders throughout Connecticut came together to form a working advocacy group whose main goal was to develop and pursue a well-supported short list of legislative priorities. This effort, which has become known as the Connecticut Elder Action Network (CEAN), has involved a dynamic group of leaders working together to advance responsible public policy for elders. Its Executive Committee members include: the Connecticut Commission on Aging, AARP-CT, the Center for Medicare Advocacy, Inc., the Connecticut Association of Area Agencies on Aging, the Connecticut Coalition on Aging, the Connecticut Association of Municipal Agents for the Elderly, the Connecticut Association of Senior Center Personnel, and Connecticut Community Care, Inc.

CEAN 2005 Priority Statements

During the 2005 session, CEAN developed and promoted priority statements in five principal areas:

- **Medicare Part D, ConnPACE and Medicaid Programs**
- **Restoration of the Commission on Aging**
- **Transportation**
- **Recommendations of the Long Term Care Advisory Council**
- **Opposition to Block Granting of Medicaid Program**

Primary rationales for selection of these five areas were:

1) that pharmaceutical drugs costs are prohibitively expensive for those elders without a source of financial assistance;
2) that Connecticut's older adults need an advocacy vehicle within state government that is independent, neutral and adequately funded;
3) that inadequate funding and lack of coordination have constrained the capacity of existing elderly transportation services to meet the needs of older adults;
4) that the capacity of the long-term care system to respond to the needs of the burgeoning elder population is a critical matter that will affect all of us – individuals, families, government and society as a whole; and
5) that in any effort to re-structure or to address cost trends in the Medicaid program, it is essential to safeguard the needs of highly vulnerable and frail recipients of services.

Detailed Results of the 2005 Session in CEAN Priority Areas:

I. Medicare Part D, ConnPACE and Medicaid Programs

Issue: Beginning in January, 2006 Medicare will include a prescription drug benefit under a new Part D which is part of the Medicare Modernization Act of 2003. With the advent of Medicare Part D, individuals eligible for both Medicaid and Medicare, known as "dually eligible", will be required to obtain their prescription drug coverage under Medicare, not Medicaid. In addition, most people who participate in the ConnPACE program will also be eligible for assistance under the Part D program.

These new benefits provide both an opportunity and a challenge for Connecticut's low-income elders and people with disabilities, as well as for the State. With help from Connecticut's legislature, these vulnerable individuals can participate in the new federal prescription drug program without losing the valuable assistance that they have been receiving from Medicaid and ConnPACE.

It is CEAN's goal to ensure that those who are currently receiving drug coverage through Medicaid or ConnPACE do not have higher costs for prescription drugs or fewer available covered drugs once they begin participating in the Medicare Part D program. We want to help the State obtain savings from shifting some of this important medical coverage to the new federal program, but not at the expense of this older, disabled, and poor population.

Positions:
CEAN supports the following core principles:

- that dually eligible individuals and people on ConnPACE retain access to at least as many prescription drugs as they would have if they were not required to move to Medicare Part D;
- that dually eligible individuals and people on ConnPACE have no greater co-insurance than they would have if they were not required to move to Medicare Part D;
- that dually eligible individuals have no fewer appeal rights, and access to the medications ordered by their physicians pending an appeal decision, than they would have if they were not required to move to Medicare Part D; and
- that all reasonable efforts are made to automatically enroll eligible individuals in Part D.

2005 Session Results:

Legislators faced a complex and highly technical task in addressing the question of how benefits for ConnPACE and Medicaid participants will be provided once Medicare Part D is implemented. The resulting coordination of benefits is referred to by the short-hand term "wrap-around".

At the outset of the session, the Governor, in partnership with the Department of Social Services (DSS), presented a wrap-around proposal in House Bill 6687 that represented a strong initial framework of protections for participants of the ConnPACE program. This included coverage of many of the new, out-of-pocket obligations that would otherwise have been borne by ConnPACE enrollees under the Part D program. Of concern to advocates, however, was that HB 6687 1) did not ensure coverage of the full scope of drugs that are currently covered by ConnPACE and Medicaid (e.g. with limited

exceptions, it did not provide coverage for drugs other than those listed on Medicare formularies); and 2) did not provide full cost hold-harmless to participants of either ConnPACE (requiring that where there exists a less expensive drug in the same category as a drug the recipient seeks to take, that the recipient cover the difference between the two) or Medicaid (requiring recipients to make mandatory, non-waiveable co-payments of $1.00 to $5.00 per prescription).

In response, House Bill 6846 was raised as an alternate. This bill sought to cover the coverage gaps left by HB6687, to provide an expanded list of explanatory definitions and to add a provision permitting DSS to act as authorized representative for ConnPACE participants for appeal of denials of Part D benefits. Procedurally, however, HB6687 was not acted upon prior to the Human Services Committee's joint favorable deadline, and HB6846 was not acted upon prior to the Appropriations Committee's joint favorable deadline. This left resolution of the issues raised by both to negotiations over the DSS "implementer" – **Public Act 05-280.**

Generally, **Sections 18-21 and 27-29 of Public Act 05-280** memorialize the details of Connecticut's wrap-around:

ConnPACE Participants:

a) as conditions of eligibility, obligates participants to 1) select and enroll in a Medicare Part D plan; 2) disclose information on income and assets; and 3) to appoint DSS as authorized representative for default selection of and enrollment in a plan and for purposes of appeal of denial of benefits;

b) provides that DSS will cover Medicare Part D monthly premiums, drugs needed during the "gap" period under the federal coverage, and prescription drug costs (co-payments and deductible requirements) over the standard $16.25 co-payment unless there is a less expensive equivalent in the same category of drugs, whereupon the participant will be responsible for the difference; and

c) provides that participants will pay the actual cost of a given drug if it is less than $16.25.

Dual-Eligibles:

a) details that as of the date of implementation of Medicare Part D (January 1, 2006), those currently receiving Medicaid benefits will instead exclusively receive them through Part D; and

b) provides coverage for certain non-Part D drugs that are currently covered by Medicaid, but leaves dual-eligibles responsible for co-payments of $1 to $5 per prescription (please note that residents of nursing homes will not be obligated to make these co-payments).

Issues that remain unresolved by P.A. 05-280 include coverage of the $1.00 to $5.00 co-payments, coverage of non-formulary drugs and coverage of the cost differential between a prescribed drug and a less expensive similar drug that ConnPACE recipients will be asked to bear. Legislators should be encouraged to address these gaps in a special session prior to the January 1, 2006 effective date of the Part D benefit.

Separately, **Section 21 of Public Act 05-280** requires that ConnPACE participants make a $16.25 co-payment when re-filling a prescription that has been lost, stolen or destroyed.

II. Restoration of the Commission on Aging

Issue: The Commission on Aging is charged by statute with advocating on behalf of the elderly. In recent years, the Commission staff has been reduced from four employees to one – an Executive Director – and the total budget reduced by 58%. The Commission on Aging (off the administrative branch of government) is clearly not at parity with other state Commissions with similar breadth and scope of charge (affiliated with the legislative branch).

At the same time that its resources have been reduced, need for the Commission's work is increasing with Connecticut's elderly population on the verge of profound growth. While the Commission (staff of one, Board, volunteers and interns) has proven its dedication and resourcefulness during a difficult period, it is burdensome, inappropriate and unfair for the Commission to further its work without adequate funding and staff. To meet the complex needs of a burgeoning aging population, restoration and parity are essential.

Positions:

- support efforts to restore program budget for staff and other priorities to $300,000
- support efforts to co-locate the Commission on Aging with other commissions at the Legislature

2005 Session Results:

Public Act 05-77 expands the membership of the Commission, permits it to enter into contracts consistent with its purposes, and moves the Commission to the Legislative Department. As of July 1st, the Commission re-located from DSS to the State Capitol building.

Public Act 05-251, which memorializes the biennial budget, increases the Commission's SFY'06 budget to $153,243. Restoration of staff (one hire in SFY'06, and two additional hires in SFY'07) is planned.

III. Transportation

Issue: Transportation is a vital link between older adults, community services and social connections that promotes high quality of life. Currently, elders struggle to utilize a fragmented system of public, quasi-public and private transportation services that has posed significant challenges of coordination. Those seeking rides are faced with diverse eligibility standards, confusion over service times and geographic boundaries, increasing out-of-pocket costs, and limitations on the type of rides that are covered (e.g. non-medical and weekend rides are not commonly covered). Even more important is that cuts in program funding have meant that many have gone without needed rides.

Both the Connecticut Long Term Care Plan and the Legislative Program Review and Investigations (LPRI) Committee have recognized transportation as an essential facet of a workable and affirmative system of long-term care supports. Remedies that have been proposed include improved coordination among transit districts, additional state funding

for demand transportation, and need-based distribution of funds throughout the state. Public Act 99-265 required the Legislature's transportation committee to establish statewide objectives for providing transportation to certain constituencies; notably, older adults, those with disabilities and those eligible for Americans with Disabilities Act-funded rides. Further, it provided for a state-funded grant program through on which apportionment of funds to the towns was to be premised. As no new funds were appropriated for these purposes, however, neither initiative has yet been implemented.

Another important element of ensuring an effective system of long-term care is to provide adequate coverage of transportation costs involved in providing home care and adult day care services. Currently, Medicaid reimbursement rates to homemaker and companion agencies do not adequately compensate them for mileage, insurance or parking costs associated with rides provided by their staff. Similarly, the per diem reimbursement rate to adult day care centers does not compensate for the costs of transporting clients to and from sites.

Positions:

- support efforts to fund the Municipal Elderly and Disabled Transportation Matching Grant Program established under the Connecticut General Statutes 13b-38bb
- support efforts to formally assess service definitions and adequacy of reimbursement rates to home care and adult day care providers and make adjustments to accommodate uncovered costs
- support efforts to establish statewide objectives for providing transportation to specific constituencies; notably, older adults, those with disabilities and those eligible for rides funded through the Americans with Disabilities Act
- support efforts to fund innovative transportation programs on a pilot basis

2005 Session Results:

Among other major transportation-related provisions, **Public Act 05-4** provides $5 million each in SFY'06 and '07 for the Municipal Elderly and Disabled Transportation Matching Grant Program as established under Connecticut General Statutes Section 13b-38bb and administered by the Department of Transportation (ConnDOT). The grants are for demand responsive transportation for the elderly (persons age 60 and older) and persons with disabilities. The maximum amount allocated to a municipality will be determined by the following formula: 50% of funds apportioned on the basis of incidence of town residents age 60 and older as compared to total incidence of that age group statewide; and 50% apportioned on the basis of a municipality's square mileage as compared to the total square mileage of the State. Each municipality that applies for funding must provide a 50% match to the requested grant funds, and must certify maintenance of effort of the current municipally-funded level of service. Applications will be solicited through designated regional planning organizations and transit districts.

Section 54 of Public Act 05-280 establishes a program through which four grants of $25,000 each will be provided to municipalities or non-profits representing at least 25,000 people to initiate "independent transportation networks". This appropriation is premised on franchising an existing model developed by a Portland, Maine-based organization called ITNAmerica. The model seeks to leverage modest public start-up funding against support from foundations, the business community and private individuals, and to achieve ongoing financial viability through memberships and ride fares. In contrast to municipal demand transit programs, the ITN program primarily

employs private vehicles, and is not restricted in purpose (e.g. for medical transportation). Its membership and fee structure permits tailoring to individual needs, with discounted fares available to those who are able to reserve rides ahead of time, and higher fares for those who request trips on a more immediate basis.

IV. Recommendations of the Long Term Care Advisory Council

Issues:

Statement of Principle

The Long-Term Care Advisory Council proposed to amend Section 501, Subsection (a) of C.G.S. 17b-337, which established the Long-Term Care Planning Committee, with a guideline principle to be considered when coordinating policy development and implementing the recently released Long Term Care Plan. The statement is as follows:

"Such policy and plan shall provide that individuals with long-term care needs have the option to choose and receive long-term care and support in the least restrictive, appropriate setting."

The guideline principle is consistent both with the Supreme Court's 1999 decision in Olmstead, which addressed claims of institutionalized individuals under the federal Americans with Disabilities Act, and with the expansion in 2001 of the statutory scope of authority of the Long Term Care Planning Committee to include all people in need of long-term care, not simply older adults.

2005 Session Results:

Public Act 05-14 adopts a principal statement that individuals in need of long-term care shall have the option to choose and receive supports in the least restrictive, appropriate setting.

Needs Assessment

In support of data needs identified by the Long-Term Care Plan, the Long-Term Care Advisory Council advocated for state funding for a comprehensive assessment of need for long-term care in Connecticut.

2005 Session Results:

A bill that sought to appropriate $200,000 for a LTC needs assessment was not acted upon prior to the Appropriations Committee deadline.

Personal Care Assistant (PCA)

A small state-funded Personal Care Assistant pilot (PCA Pilot) program was established in 2000 to serve up to 50 individuals statewide who are age 65 or older and meet all of the technical, functional and financial eligibility requirements of the CHCPE. This program is available to (1) individuals who have previously received services under the PCA Waiver; and (2) individuals who are unable to access adequate home care services to remain in the

community. The PCA Pilot allows eligible individuals to hire a PCA to perform up to 25.75 hours of assistance per week.

After three years of operation, it became apparent that the 50 slots available under the PCA Pilot would not accommodate the needs of all individuals aging out of eligibility for the PCA Waiver. Efforts by the Legislature in 2004 to correct this problem unfortunately did not offer an effective remedy due to cost cap constraints, but DSS took the position of expanding the number of available slots to 100 under existing statutory authority. Based on ever-increasing projections of need, however, the Long-Term Care Advisory Council is now advocating that the legislature increase available program slots to 150 and that certain technical issues, including a sunset provision, be corrected.

2005 Session Results:

Section 3 of P.A. 05-209 1) expands the state-funded personal care assistant pilot from 100 to 150 persons; 2) liberalizes eligibility requirements by removing the mandate that a participant demonstrate either a) that he or she is aging out of eligibility for the PCA Waiver for individuals age 18-65, or b) that he or she cannot access sufficient home care services; 3) consolidates the previously enacted pilots; and 4) and removes the previously adopted standard of cost effectiveness, instead leaving cost effectiveness to the determination of the DSS Commissioner.

V. Opposition to Block Granting of Medicaid Program:

Issue: In recent years, there has been significant attention by states and the federal government on Medicaid spending. A major component of all state budgets, Medicaid costs continue to increase during an era of diminishing revenues.

In 2004, the federal budget included provisions that proposed to offer states flexibility in administration of their Medicaid programs in exchange for the compromise of capping the amount of Medicaid funding that they would receive from the federal government. In response, the Department of Social Services submitted a concept paper to the Centers for Medicare and Medicaid Services (CMS) outlining its intent to seek a waiver and suggesting that they would consider a global cap on CT's federal Medicaid funding. Concerned about implications for various beneficiary populations, the Legislature responded to this by prohibiting the Commissioner from negotiating any waiver that would change the current federal match formula. Section 106 of P.A. 04-2 (the Office of Policy and Management implementer) provided:

From the effective date of this section to June 30, 2005, inclusive, the Commissioner of Social Services shall not agree to any Medicaid waiver in which the federal government, as a condition of granting the waiver, requires the state to agree to limit the normal fifty per cent federal cost sharing in the program.(effective from passage – May 12th, 2004)

Other states also grappled with this same issue. For example, in New Hampshire, the Legislature enacted a provision that required:

The department of health and human services shall not amend nor seek to amend, nor gain nor seek to gain approval of waivers to, the state Medicaid plan in any way that

results at any time in the consolidation of federal grants or allotments, caps on the federal portion of Medicaid spending, reductions in the federal share of Medicaid spending, or increases in the state share of Medicaid spending, without the prior approval of the fiscal committee of the general court.

It was expected that the FY '05 – '06 Governor's budget would include proposals that will reduce coverage for Medicaid recipients, and on the federal level it is clear that the administration favors capping funding of the Medicaid program through Congressional action. This is of serious concern because funding caps (or block granting) will mean that program funding is no longer related to actual enrollment and that it is inelastic to increased medical and prescription drug costs. It could also involve limiting optional services to various beneficiaries, reduction of services in certain geographic areas, increased out-of-pocket obligations, and/or loss of program safeguards (e.g. managed care protections).

Position:

- oppose efforts to use the waiver process or Congressional action to cap funding for the Connecticut Medicaid programs

2005 Session Results:

Public Act 05-40 sought to prohibit DSS, through June 30, 2007, from entering into an agreement to block grant the Medicaid program. On May 18, 2005, the Governor vetoed this act, commenting that it "does not provide the Department of Social Services the flexibility to negotiate on behalf of the State of Connecticut certain waivers of the requirements of the Medicaid program administered by the United States Department of Health and Human Services (the "USHHS")", and that "the Department of Social Services needs the flexibility to determine and negotiate appropriate program parameters on behalf of the State of Connecticut in waiver submissions and must have the authority to negotiate a reimbursement rate that is in the best interests of the state."

Subsequently, there has been significant national attention directed at the structural and cost growth issues in the Medicaid program. The National Governor's Association has released a set of policy recommendations to Congress that includes proposals to tighten eligibility requirements, impose additional cost-sharing responsibilities on participants, and to permit "benefit package flexibility". In the wake of initial Congressional hearings on these and other issues, the Health and Human Services Administration has just announced appointment of members to a new Medicaid Advisory Commission, through which proposals to change the Medicaid program will be raised.

VI. Other Bills of Interest

Favorable Action

Alzheimer's Respite

- **Funding for Statewide Respite Program: Public Act 05-251**, which memorializes the biennial budget, appropriates $1,256,806 to the Statewide Respite Program (increased from current year appropriation of $1,120,200).

Department on Aging

- **Department on Aging: Section 52 and 53 of Public Act 05-280** re-establish a stand-alone Department on Aging with statutory responsibilities consistent with those of the current State Unit on Aging (DSS Aging Services Division) and establish a task force to study implementation issues.

Energy Assistance

- **Eligibility for Assistance: Public Act 05-123** authorizes provision of energy assistance to eligible households regardless of the type of energy utilized.

- **Rate Study: Public Act 05-1** requires the Department of Public Utility Control to conduct a study by October 1 and report its findings to the Legislature's Energy and Technology Committee by Feb. 1, 2006. The DPUC is required to determine a reasonable amount of compensation for electric companies for providing standard service and whether each company should receive compensation for providing last resort service for large business customers.

- **Low-Income Energy Assistance Advisory Board: Public Act 05-204** creates a new Low-Income Energy Advisory Board, which will advise the administration on energy and low-income winterization assistance programs and policies.

Entitlements

- **SSI COLA: Public Act 05-243** increases, starting January 1, 2006 and annually thereafter, the State Supplement unearned income disregard by the amount of the Supplemental Security Income cost-of-living increase.

- **Claims on Settlements/Court Awards: Section 44 of Public Act 05-280** prohibits the State from making claims or placing liens on funds received by beneficiaries of public assistance as a result of discrimination complaints.

Grandparents Raising Grandchildren

- **Foster Care Subsidies: Public Act 05-254** authorizes relative guardians of children who have been in foster or certified care for at least six months to receive higher monthly payments under the subsidized guardianship program.

Home Care Program for Elders

- **Asset Limits:** Effective April 1, 2007, **Section 9 of Public Act 05-280** expands the asset limits for the two state-funded tiers of the Connecticut Home Care Program for Elders (CHCPE) as follows: for an individual, asset limit expanded to 150% of Community Spouse Protected Amount (CSPA, currently $19,020, increases annually), for a couple, asset limit expanded to 200% of the CSPA.

- **Provider Issues**

  - **Nursing Oversight: Public Act 05-64** requires at least one monitoring nursing visit each 60 days to patients receiving homemaker/home health aide services.

  - **Audit Methodology: Public Act 05-195** establishes standards for provider audits conducted by DSS, providing for notice requirements, limiting the use of the extrapolation method, allowing for follow-up documentation, requiring an exit interview and providing opportunities for subsequent review of findings.

  - **Prior Authorization of Nursing Visits: Section 45 of Public Act 05-280** requires prior authorization from DSS or its contractor of skilled nursing visits in excess of two per week.

Housing

- **Duties of RSC's: Public Act 05-206** supplements the existing duties of resident service coordinators (RSC's) with responsibilities for conflict resolution, liaison work with community providers, orientation of new residents, and organizing opportunities for socialization; and permits the Department of Economic & Community Development (DECD) to provide monthly RSC training.

- **Inventory of Accessible Housing: Public Act 05-239** implements the recommendations of the Legislative Program Review and Investigations Committee. It 1) obligates state agencies to support housing authorities in identifying and accessing services for residents; 2) requires DECD to conduct an assessment of current and future need for subsidized housing for the elderly and those with disabilities; 3) requires DECD to create an inventory of accessible housing; and 4) requires DECD, in consultation with other agencies, to evaluate role and oversight of RSC's.

- **Housing Trust Fund & Other Housing Enhancements: Public Act 05-5** enacts a $100 million Housing Trust Fund, which is financed with general obligation bonds and will be overseen by the DECD. Bonding is authorized at $20 million a year over the next five years. Legislators also increased bonding for DECD's existing housing programs above the governor's original budget proposal, from $15 million to $21 million for FY'06 and from $10 million to $15 million in FY '07. In the first year, $12 million of the $21 million is earmarked for rehabilitation of state-financed public housing. In addition to the trust fund, the state budget includes another 500 units of supportive housing and expands the state Rental Assistance Program by $1.8 million. **PA-05-228** authorizes a new document-recording fee, the proceeds of which will benefit affordable housing, farmland preservation, open space and historic preservation.

Insurance

- **Medicare Supplement Policies: Public Act 05-20** amends Connecticut's laws on Medigap policies to conform with the requirements of the federal legislation that enacted Medicare Part D. Specifically, this act: 1) authorizes two new standard policies (K, which will cover 50% of the out-of-pocket costs of participating in the Part D benefit; and L, which will cover 75% of these costs); 2) prohibits companies from selling policies H, I, and J after December 31, 2005; 3) prohibits companies from using factors including age, gender, medical condition/claims history to exclude applicants from coverage; and 4) prohibits companies from premising pricing on these factors.

- **Sale of Annuities: Public Act 05-57** requires the Department of Insurance to adopt regulations to establish standards for sale of annuities to individuals age 65 and over.

- **Prohibition Against Requiring Re-Fills by Mail: Public Act 05-233** prohibits employers, insurers and health care centers from requiring fills of prescription drugs by mail.

Medicaid

- **Transfer of Assets Waiver:** In a press release dated May 6th, the Governor announced that she is requiring DSS to withdraw the waiver application that sought 1) an eligibility rule change in treatment of transfer of assets; and 2) an extension, from three to five years, in the look-back period for transfers of real property, citing both potential harm to older adults and need for Congressional debate on this issue. This means that the debate on imposition of penalty periods for transfer of assets shifts to the federal level, via the federal Medicaid Advisory Committee. However, **Section 39 of Public Act 05-280** includes as stand-alone law previously enacted provisions of Section 17b-261a that had been interpreted to be contingent upon approval of the waiver application. These include 1) imposing a clear and convincing evidence standard on those who are seeking to rebut the presumption that a transfer has been made for the purposes of qualifying for medical assistance; 2) transferee liability (e.g. a debt that is owed to the State by a person who gives or receives transferred assets); and 3) provision for waiver of penalty periods where the transferor is unable to explain or was exploited into making a transfer due to dementia. Further, **P.A. 05-112**, which sought to strengthen legislative review of waiver proposals and to require that any waiver submitted per C.G.S. Section 176-8 reflect recommendations of the committees of cognizance, was vetoed by the Governor.

Nursing Home Issues

- **Sprinkers: P.A. 05-187** delays the implementation date that was established in 2004 for mandatory installation of sprinkler systems in nursing facilities, requires home to submit progress reports to local fire marshals on efforts to date, and requires the Connecticut Health & Education Facilities Authority to create and implement a loan program for installation of systems.

Prescription Drugs

- **Co-Payments:** Consistent with having repealed, in 2004, 1) Medicaid co-payments of $1.50 for each prescription; and 2) authorization for DSS to seek federal approval to allow pharmacies to refuse to fill prescriptions for Medicaid recipients who have chronically been unable to make required co-payments, the Legislature rejected the

proposed imposition of a $3.00 per prescription co-payment on each Medicaid prescription. Notwithstanding, in its "wrap-around" of ConnPACE and Medicaid benefits to the Medicare Part D program (see above), the Legislature failed to provide coverage for co-payments of $1.00 to $5.00 per prescription that will be required of those dually-eligible for Medicare and Medicaid.

- **Drug Reimportation: Section 67 of Public Act 05-280** requires the Commissioner of the Department of Public Health to convene a working group to study group purchasing and re-importation programs for purchase of prescription drugs through state-administered programs.

- **Prior Authorization: Sections 15 and 16 of Public Act 05-280** establish that prior authorization for brand-name prescriptions is valid for one year from the initial fill of the prescription, at which point repeat authorization is required. Further, based on DSS' experience with the prior authorization process, these sections repeal the requirement that prior authorization be sought for drugs that cost more than $500 for a thirty-day supply.

- **Preferred Drug Lists: Section 17 of Public Act 05-280** notes previously enacted prior authorization requirements for drugs other than those included on preferred drug lists, and memorializes exceptions for mental health-related and antiretroviral classes of drugs.

Probate Matters

- **Duties of Conservators: P.A. 05-155** requires conservators who are seeking to place wards in nursing facilities to first submit to the involved probate court a report documenting the basis for this decision, identifying community-based alternatives that have been considered, and reasons for which the ward cannot be served in a less restrictive setting. Further, provides for a hearing to address the suitability of the placement.

- **Transfer of Records: P.A. 05-26** authorizes wards to apply to the probate court for transfer of records to a new town to which the ward has moved.

- **Standards for Appointing a Temporary Conservator: P.A. 05-154** makes changes in the process of appointing a temporary conservator that will a) require that the involved risk of injury be both irreparable and **immediate;** b) limit duties and powers to the circumstances that prompted the petition; c) require specific findings of same; d) provide for termination within the initial thirty days of appointment; e) require that the court make a specific finding as to the need for temporary conservatorship; and f) limit the authority of a temporary conservator to change the ward's residence to situations in which the court finds through a hearing that is necessary.

Taxation

- **Nursing Home Provider Tax: Sections 46-51 of Public Act 05-251** authorize the State to seek federal approval of and implement a nursing home provider tax (exempting CCRC's) and authorizes use of revenues to support rate increases to nursing homes as well as a 4% (contingent on federal approval of tax proposal and level of surplus) rate increase to residential care homes, home health services, home care waiver services, state-funded home care, ICF's for those with intellectual disabilities, personal care attendants, assisted living services, and private providers

through various departments of the State. In re-directing revenues, this proposal has been highly controversial with the Connecticut nursing home industry.

- **Succession/Gift Taxes: Sections 66-70 of Public Act 05-251** replace Connecticut's succession and gift taxes with a uniform tax on transfers of Connecticut taxable gifts and estate that exceed a combined lifetime total of $2 m.

No Action/Veto

Assisted Living

- **Various:** Bills that sought to permit recipients of state supplement payments to use these to pay toward the costs of assisted living, and to expand the existing affordable assisted living pilots from 75 participants to 150, were not acted upon prior to the Appropriations Committee deadline.

Elder Abuse

- **Elder Death Review Team:** A bill that proposed to require that the Office of the State Medical Examiner establish an interagency elder death review team to assess deaths potentially attributable to elder abuse or neglect was not acted upon prior to the end of the session.

Entitlements

- **Workers' Compensation Social Security Offset:** A bill that sought to eliminate the Social Security offset under the Workers' Compensation Act was not acted upon before the end of the regular session.

- **Social Security COLA and Program Eligibility:** A bill that sought to exclude Social Security cost-of-living increases from financial eligibility determinations for DSS programs was not acted upon prior to the Appropriations Committee deadline.

- **Burial Assistance:** A bill that sought to require DSS to increase the dollar amount of burial assistance from $1,200 to $3,000 was not acted upon prior to the Appropriations Committee deadline.

Grandparents Raising Grandchildren

- **Various:** Bills that sought to increase the level of benefits available to relative caregivers seeking subsidized guardianship, to liberalize DSS's eligibility determination process for program benefits by excluding foster care payments, subsidized guardianship payments, and income attributable to children for which the applicant is providing care, and to require DSS to establish a program through which relative caregivers would receive 2 weeks of respite support per year, were not acted upon prior to the Appropriations Committee deadline. A bill that sought to give grandparents the right to visit grandchildren upon the death of the child's parent(s), incarceration of the child's parent(s) or dissolution of the child's parents' marriage was not acted upon prior to the Judiciary Committee deadline.

Home Care

- **Staffing:** A bill that sought to provide a four-year tuition rebate to individuals who complete a nursing degree at an accredited Connecticut school and agree to work in Connecticut for a minimum of four years was not acted upon by Higher Education and Employment prior to its deadline. A bill that sought to permit retired LPN's, RN's and APRN's to practice nursing for compensation was not acted upon by the Public Health Committee prior to its deadline.

- **Consumer Protections:** Bills that sought 1) to require the Department of Public Health to license home health aides and to adopt regulations concerning criminal background checks, bonding, prohibition on sale of items to patients and acceptance of gifts, as well as criteria for contracts with patients; and 2) to require home health care agencies to conduct criminal background checks on employees, and to prohibit employees of home health care agencies from assisting a patient in the development of a will or estate plan, or being designated as a beneficiary, attorney-in-fact, conservator or guardian in a patient's will or estate plan, were not acted upon by the Public Health Committee prior to its deadline.

Insurance

- **Various:** Bills that sought 1) to allow any person covered by Medicare to purchase any Medicare supplement policy; 2) to reduce the eligibility age for accident prevention course discounts from 62 to 55; 3) to require insurance coverage of hearing aids; and 4) to require inflation protection and standards for asset protection in all long-term care insurance policies were not acted upon by Insurance prior to its deadline. A bill that sought to prohibit stock corporations from changing their retiree benefit packages without consent from 51% or more of their retirees was not acted upon by Labor & Public Employees prior to its deadline.

Medicaid

- **Eligibility Determinations:** A bill that sought to require that DSS apply to the Centers for Medicare and Medicaid Services (CMS) for a waiver to extend standard of promptness (SOP) requirements for review of long-term care applications from 45 to 90 days, and to extend the re-determination period from one to two years was not acted upon before the end of the regular session.

- **Coverage:** A bill that sought to restore the availability of certain medical services under the Medicaid program, to require the Commissioner of Social Services to adjust the unearned income disregard, used to make program eligibility determinations, by any corresponding increase to the consumer price index, and to require the Commissioner of Social Services, in consultation with an advisory council, to review the rules of eligibility concerning the Medicaid program and report back to the General Assembly on findings and recommendations, was not acted upon prior to the Appropriations Committee deadline.

- **Dual-Eligibles:** A bill that sought to require DSS to fully reimburse medical providers that serve those dually eligible for Medicare and Medicaid was not acted upon prior to the Appropriations Committee deadline.

- **Independent Office of Administrative Hearings:** A bill that sought to create an independent Office of Administrative Hearings was not acted upon prior to the Judiciary Committee deadline.

Nursing Home Issues

- **Staffing Levels:** A bill that sought to 1) increase direct care provider staffing levels on graduated basis starting with requiring one full-time employee for each ten residents during the day shift, one full-time employee for each fifteen residents during the evening shift, and one full-time employee for each twenty residents during the night shift; 2) develop a DPH acuity system that may require enhanced staffing; 3) require homes to report failure to meet standards; and 4) give DPH the option to take action against homes for failure to report staffing deficiencies was not acted upon before the end of the regular session.

- **Medication Administration:** A bill that sought to authorize a medication technician program was not acted upon before the end of the regular session.

- **Various Consumer Protections:** Bills that sought to require facilities to develop and implement pain management protocols, and to require the Ombudsman in collaboration with DSS, DPH and DMHAS to develop and implement a pilot mobile care integration team, were not acted upon before the Appropriations Committee deadline. Bills that sought 1) to require hospitals and nursing facilities to post and make available to the public and DPH daily information on staffing levels; and 2) to ensure that individuals with ownership or controlling interest in nursing facilities that are convicted of vendor fraud can be held personally liable were not acted upon by Public Health prior to its deadline.

Nutrition

- **Funding for Elderly Nutrition Program:** Bills that sought to increase funding for meals-on-wheels and congregate meals through the elderly nutrition program were not acted upon prior to the Appropriations Committee deadline. **Public Act 05-251,** which memorializes the biennial budget, reduced the appropriation to the Services to the Elderly line by $192,735. This is anticipated to result in a $100,000 statewide cut to the Elderly Nutrition Program.

Prescription Drugs

- **Various:** Bills that proposed to increase income eligibility limits, to permit buy-in to the program, and to provide graduated program benefits to individuals in higher income tiers were not acted upon by the Human Services Committee prior to its deadline. A bill that sought to require DSS to adopt consumer protections that ensure that participants of state pharmacy programs are not denied access to needed prescription drugs through the prior authorization process or preferred drug list was not acted upon before the Appropriations Committee deadline. Bills that sought 1) to authorize signature on a memorandum of understanding with the Illinois "I-SaveRx" prescription drug reimportation program, and 2) to permit participants of the ConnPACE program to obtain 90-day supplies of maintenance medications once an initial fill has been made were not acted upon prior to the end of the session.

Probate

- **Various:** Bills that sought 1) to change the financing and organizational structure of the Probate Court system; 2) to require the Probate Court Administrator to establish uniform standards for hiring, training and salaries of court personnel; 3) to clarify roles of conservators and DSS with respect to programs and services of the department; 4) to permit DSS to resign as conservator where subsequent to the appointment, the ward's

assets exceed the statutory limits under Section 45a-651; 5) to adopt the Uniform Trust Code; and 6) to authorize creation of trusts for care of domestic animals were not acted upon before the end of the regular session.

Taxes

- **Income Tax:** Bills that sought 1) to exempt pension income from the state income tax either on an immediate or a phased-in basis; 2) to exempt from income tax funds invested in retirement accounts prior to 8/31/91; 3) to create an income tax deduction for long-term care expenses relating to care of an older adult by an immediate relative in the relative's home; 4) to create an income tax deduction for purchase of long-term care insurance; and 5) to create an income tax exemption for premiums paid on long-term care insurance policies were not acted upon prior to the Finance, Revenue & Bonding Committee deadline.

- **Property Tax:** A bill that sought to freeze taxes at 2005 levels for those age 80 and older who reside in their own homes, have been Connecticut residents for a minimum of one year, and have annual income of no more than $16,200 (individual) and $20,000 (couple) (bill language authorizes income limits to be adjusted annually with the Social Security COLA) was not acted upon before the end of the regular session.

- **Conveyance Tax:** A bill that sought to exempt principal residence of an older adult from the real estate conveyance tax was not acted upon prior to the Finance, Revenue & Bonding Committee deadline.

VII. Conclusion

The 2005 Legislative Session in Connecticut represented welcome partnership among legislators, advocates and citizens. Positive results on priority areas identified by CEAN include strong first steps in wrap-around of the ConnPACE and Medicaid programs to the new Medicare Part D benefit, authorization to move the Commission on Aging over to the Legislature and enhancement of its budget, significant new funding for the Municipal Elderly and Disabled Transportation Matching Grant Program, adoption of a long-term care statement of principle and expansion of the Personal Care Assistant (PCA) pilot.

Despite significant commitment on the part of the State to the concept and practice of home and community-based care, however, the level of public resources devoted to institutional care still remains disproportionate to that expended for home care supports. Further, community-based providers are struggling with reimbursement, staffing and capacity constraints just as the Baby Boomers begin to emerge as the next cohort of elders. These issues clearly warrant additional efforts to work through the complex allocation of funds, personnel and infrastructure that is involved. Further, the trend toward emphasizing personal responsibility in payment for long-term care should be balanced by tax and workplace incentives (e.g. income tax credits for caregiving, subsidies for purchase of long-term care insurance), and policy makers must be vigilant in preserving access to Medicaid funding for both home care and care in nursing facilities. Finally, as has been noted by the Connecticut Long Term Care Planning Committee, it will be of great benefit to continue efforts to overcome age compartmentalization in program design and implementation, instead planning for long-term care and respite services across the entire life span.